

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

ALBERT J. SLINEY :
:
vs. : C.A. No. 06-359-S
:
DISCIPLINARY BOARD OF :
RHODE ISLAND :

ORDER OF DISMISSAL

William E. Smith, United States District Judge.

Albert J. Sliney has filed a "Notice of Administrative Appeal" in this Court, which purports to be an appeal from the Disciplinary Board of the Supreme Court of Rhode Island. From the papers, it appears that in August, 2005 Sliney filed a disciplinary complaint against Attorney William J. Murphy, who served as Sliney's court-appointed counsel in a criminal case in this Court, in which Sliney was convicted of being a felon in possession of a firearm and sentenced to a term of imprisonment. See United States v. Albert J. Sliney, CR 01-012-ML. A copy of the disciplinary complaint is attached to the Notice.¹ Sliney alleges that the Disciplinary Board has not acted on this complaint.

The disciplinary complaint alleges, in essence, that Attorney Murphy failed to competently and diligently represent Sliney in

¹ Although the Disciplinary Complaint references exhibits A through D, those exhibits are not attached. The absence of these exhibits does not affect the Court's ruling herein.

connection with his criminal case by (1) failing to file a pretrial motion for the suppression of certain incriminating statements given by Sliney; and (2) failing to forward to Sliney copies of grand jury transcripts which Attorney Murphy had allegedly used in the cross-examination of one of the witnesses at Sliney's criminal trial. The Court takes judicial notice that Sliney has previously filed a separate proceeding in this Court, an application for post-trial relief under 28 U.S.C. § 2255, which involves *inter alia* the same subject matter and similar allegations concerning his counsel. See Albert J. Sliney v. United States, CA 05-033-ML. That proceeding is currently pending before another Judge of this Court.

After review of the papers, this Court finds that the Notice of Administrative Appeal should be dismissed, as the Court has no jurisdiction over matters pending before, or appeals from, the Disciplinary Board of the Supreme Court of Rhode Island. Further, to the extent that this Notice could be construed as asserting an ineffective assistance claim against Attorney Murphy, it is barred as a second and successive §2255 petition. See 28 U.S.C. § 2255, ¶ 8 (requiring that a second and successive §2255 petition be certified by a panel of the appropriate court of appeals in accordance with 28 U.S.C. § 2244).

Accordingly, the above-captioned Notice of Administrative Appeal is hereby DISMISSED with prejudice.

SO ORDERED:

Womr
District Judge

Date:

9/7/06

ENTER:

Alta L. M.
Clerk